

R381-70-2. DEFINITIONS.

This section provides definitions of words that are specific to Child Care Licensing (CCL) or are used multiple times in licensing rules.

- (1) **"Applicant"** means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.
- (2) **"Background Finding"** means information in a background check that may result in a denial from Child Care Licensing.
- (3) **"Background Check Denial"** means that an individual has failed the background check and is prohibited from being involved with a child care program.

Rationale/Explanation

Refer to "Section 8: Background Checks" for a complete description of the reasons why an individual will not pass a CCL background check. According to Utah statute 26-39-404, a licensee or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor to provide child care, volunteer, reside, or serve in any ownership or administrative capacity in a child care facility or program.

- (4) **"Barrier"** means an enclosing structure such as a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (5) **"Body Fluid"** means blood, urine, feces, vomit, mucus, or saliva.
- (6) **"Business Days and Hours"** means the days of the week and times the facility is open for business.
- (7) **"Capacity"** means the maximum number of children for whom care can be provided at any given time.
- (8) **"CCL"** means the Child Care Licensing program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

- (9) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.
- (10) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.
- (11) "Covered Individual" means any of the following individuals involved with a child care program:
- (a) an owner;
 - (b) a director;
 - (c) a member of the governing body;
 - (d) an employee;
 - (e) a caregiver;
 - (f) a volunteer, except a parent of a child enrolled in the child care program;
 - (g) an individual age 12 years or older who resides in the facility; and
 - (h) anyone who has unsupervised contact with a child in care.
- (12) "Department" means the Utah Department of Health.
- (13) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
- (14) "Director" means a person who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with Child Care Licensing rules.
- (15) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.
- (16) "Entrapment Hazard" means an opening greater than 3- 1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- (17) "Facility" means a child care program or the premises approved by the department to be used for child care.

Rationale/Explanation

The "premises" means the provider's building (or buildings) and grounds.

(18) "Group" means the children who are assigned to and supervised by one or more caregivers.

Rationale/Explanation

This definition applies whenever children are under the responsibility of the out-of-school-time provider, both on the premises and offsite.

(19) "Group Size" means the number of children in a group.

(20) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.

(21) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(22) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

(23) "Inaccessible" means out of reach of children by being:

- (a) locked, such as in a locked room, cupboard, or drawer;**
- (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;**
- (c) behind a properly secured child safety gate;**
- (d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or**
- (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.**

Rationale/Explanation

Providers must ensure that children are safe by making potential hazards inaccessible. Approved locking equipment includes:

- Devices specifically manufactured as child safety products such as baby safety gates, child safety locks, and other child safety fastening devices. Child-resistant packaging (such as a medicine bottle safety cap) is not approved locking equipment.
- Locks that use a key or combination to unlock them.
- Locks that use a coin, allen wrench, or similar additional tool to unlock them except when used to lock firearms.
- Locks that do not use a key or combination, such as a deadbolt or hook-and-eye latch, when they are installed at least 60 inches high.
- Properly secured homemade or manufactured child safety gates that are at least 24 inches high from the floor to the top of the gate. The gap between the floor and the bottom of the gate cannot exceed 5 by 5 inches.
- Zip ties, except when used to lock firearms.

To be considered locked and therefore inaccessible:

- A room, area, cabinet, or item is locked or secured with an approved locking device. If a key or combination lock is used, the key hole or combination pad must be on the side child care is taking place.
- A key or other device used to open the lock is not in the lock.
- A safety gate is latched and secure even when bumped or shaken.
- All doors that access the same area, cupboard, closet, or cabinet are locked.

To be considered out of reach of children and therefore inaccessible:

- Items are on counters or shelves and/or in cupboards or drawers that are at least 48 inches high.
- Items are on securely stacked objects that are at least 48 inches high. To create a surface that is 48 inches or higher, stacking furniture may be used, or items may be firmly on or attached to another structure. If stacked furniture or items are unsecured they are accessible. Unsecured means loose, unbound or unattached.
- In bathrooms, items are at least 48 inches above any fixture, furniture, or equipment on which a child could stand or climb, such as a toilet, bathtub, counter, cart, chair, stepstool, or ladder. If the fixtures, furniture, or other items have 12 inches or more between them, they will not be considered close enough for a child to move from one surface to another.

Measurements are taken with a wood or metal measuring tool.

(24) "Infectious Disease" means an illness that is capable of being spread from one individual to another.

(25) "Involved with Child Care" means to do any of the following at or for a child care program:

- (a) supervise or be assigned to work with children;**
- (b) volunteer;**
- (c) own, operate, direct;**
- (d) reside;**
- (e) count in the caregiver-to-child ratio; or**
- (f) have unsupervised contact with a child in care.**

(26) "License" means a license issued by the department to provide out-of-school-time program services.

(27) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

- (28) "LIS Supported Finding" means background check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.
- (29) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.
- (30) "Parent" means the parent or legal guardian of a child in the program.
- (31) "Person" means an individual or a business entity.
- (32) "Physical Abuse" means causing nonaccidental physical harm to a child.
- (33) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.
- (34) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.
- (35) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- (36) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

Rationale/Explanation

The provider, namely the licensee, is legally responsible for all aspects of the child care program's operation and management, and for compliance with all licensing rules.

- (37) "Qualifying Child" means:
- (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or
- (38) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(39) "Room" is defined by the department as follows: If a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area is considered:

- (a) One room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable.
- (b) One room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.
- (c) Two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This also applies to a diaper changing station that is located behind a closed gate.
- (d) Two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.

If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

- (e) One room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms.
- (f) Two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

If in outdoor areas separated by interior fences, the department considers it:

- (g) One area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening.
- (h) One area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely.
- (i) Two areas if the interior fence is higher than 24 inches and there is no opening.
- (j) Two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(40) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(41) "School-Age Child" means a child age five through 12 years old.

Rationale/Explanation

For licensing purposes, a child is considered school age on the child's 5th birthday.

- (42) "Services" means the supervision and response to the needs of five or more qualifying children:
- (a) in the absence of the children's parents,
 - (b) in a place other than the provider's home or the child's home,
 - (c) for less than 24 hours a day, and
 - (d) for direct or indirect compensation.
- (43) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.
- (44) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.
- (45) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.
- (46) "Stationary Play Equipment" means equipment such as a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:
- (a) a sandbox;
 - (b) a stationary circular tricycle;
 - (c) a sensory table; or
 - (d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.
- (47) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:
- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) hardware that forms a hook or leaves a gap or space between components such as a protruding open S-hook; or
 - (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.
- (48) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background check.

(49) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(50) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(51) "Working Days" means the days of the week the department is open for business.

Rationale/Explanation

The department is open for business on Mondays through Fridays from 8:00 a.m. to 5:00 p.m. except on federal and state holidays.